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Attorneys for Defendant Darren Brinkley

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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CRIMINAL PRODUCTIONS, INC.,  
Plaintiff,  
vs.  
DOES 1-32,  
Defendants.

**SHORT FORM DISCOVERY  
MOTION TO COMPEL**

Civil No. 2:17-cv-00550

Magistrate Judge Dustin B. Pead

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NOW COMES Defendant/Counter-Plaintiff Darren Brinkley and respectfully requests that this Court compel Plaintiff Criminal Productions to respond to outstanding written discovery.

1. Plaintiff's form complaint states that it possesses evidence that Defendant has infringed Plaintiff's copyrighted works. (See Complaint, ECF. No. 2): "Plaintiff also knows the time and date and at the time at which the infringing activity of each Defendant was observed..."

(13); "activity of each IP address of Defendants has also been observed and associated with significant infringing activity..." ( 14); "the forensic software uses recognized Transmission Control Protocol (TCP) to establish a direct electronic connection to each Defendant's computer." ( 24); (see also Complaint, Dkt. No. 2, 21 - 26.)

2. Defendant's Interrogatories and Requests for Production, served on March 26, 2018, ask Plaintiff to provide this evidence, as well as the identities and contact information for other Defendants who are alleged to have been part of the same "swarm." (See Exhibits 1 and 2 attached hereto.)

3. Plaintiff has not served any discovery; refuses to discuss the scheduling of relevant depositions, and, beginning on or about April 19, 2018, has repeatedly requested, without basis, that Defendant "refrain from pursuing discovery or other proceedings..." (See Exhibit 3 attached hereto.).

4. On May 3, 2018, over a week after responses were due, Defendant's counsel, pursuant to LR 37.1, made a final meet-and-confer request. (Ex. 3.) Plaintiff's counsel has not responded.

4. Counsel for Defendants represent under oath that they have made good faith efforts to resolve this dispute. (See Ex. 3.)

5. Counsel Lisa L. Clay further represents that she has handled dozens of other "copyright troll" cases and has never received appropriate responses to written discovery. Indeed, discovery requests are met with obstruction, baseless objections and endless excuses for non-compliance. Plaintiffs eventually file a motion seeking to voluntarily dismiss without prejudice. This "cut and run" tactic is used to avoid having to produce written discovery and

witnesses for deposition and to avoid paying the defendant's fees and costs. Counsel for Defendant respectfully suggests that the Court order these plaintiffs to produce the evidence they claim to possess"

WHEREFORE, Defendant/Counter-Plaintiff respectfully requests that this Honorable Court compel responses to his First Set of Interrogatories and Document Requests.

DATED this 7<sup>th</sup> day of May, 2018.

HOOLE & KING, L.C.

/s/ Gregory N. Hoole  
Gregory N. Hoole  
Attorneys for Defendant Darren Brinkley

LISA L. CLAY, ATTORNEY AT LAW

/s/ Lisa L. Clay  
(signed with permission)  
Lisa L. Clay  
Attorneys for Defendant Darren Brinkley

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of May, 2018, a true and correct copy of the foregoing document was filed electronically with the Court using the CM/ECF system, which sent notice of the same via email to all CM/ECF participants who have appeared in this case.

/s/ *Gregory N. Hoole*